

Remarks

Claims 18-28 and 30 are pending.

Claims 18-28 and 30 are subject to restriction and election of species requirement.

Restriction Requirement

The Examiner has required restriction under 35 USC 121 to one of the following "inventions" identified as follows:

I - Claims 18-27 and 30, drawn to a method for preparing a physiologically compatible film, classified in class 427, subclass 355.

II - Claim 28, drawn to a non-self-adhering film, classified in class 424, subclass 49.

The Examiner notes that inventions I and II are related as process of making and product made. However, the Examiner contends that restriction is required and proper since the product of invention II, as claimed, "can be made by a completely different process involving different steps and/or a different order of the steps."

Applicants respectfully traverse this restriction requirement.

Applicants believe that the Examiner has made an arbitrary separation of the inventions based on multiple classification listings. The Examiner-cited classifications relate to "post-coating treatment of solids" and "oral care compositions", respectively. However, each of the above cited claims relate to films. Consequently, a search of "films" would necessarily uncover and, therefore, include a search of all potential uses and methods of making, thus, imposing no additional searching burden on the PTO.

Furthermore, invention I and invention II disclose the same subject matter (i.e., films). Section 806.03 of the MPEP indicates that "[w]here the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required." Therefore, Applicants respectfully submit that the Examiner's restriction requirement under 35 USC §121 lacks support and is, therefore, improper.

Notwithstanding the aforementioned comments, should the restriction be maintained, Applicants provisionally elect, with traverse, invention II.

In view of the foregoing remarks, it is respectfully requested that the Examiner withdraw her requirement for an election of invention and allow the generic claims to be prosecuted on the merits in the present application. In the event that the Examiner's election/restriction requirement is made final, Applicants affirm the provisional election made above.

Respectfully submitted,

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By

A handwritten signature in black ink, appearing to be 'Darryl C. Little', written over a horizontal line.

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